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## ANTIDUMPING LEGISLATION.

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DECEMBER 9, 1919.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

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Mr. FORDNEY, from the Committee on Ways and Means, submitted the following

### REPORT.

[To accompany H. R. 10918.]

The Committee on Ways and Means, to whom was referred H. R. 10918, a bill to provide revenue and encourage domestic industries by the elimination, through the assessment of special duties, of unfair foreign competition, and for other purposes, having had the same under consideration, report it back to the House without amendment and recommend that the bill do pass.

As the title implies, the purpose of the proposed bill is to prevent the stifling of domestic industries by the dumping of foreign merchandise upon the American market at less than its fair value in the country of production. Over 20 years ago, by the enactment of the Sherman antitrust law, Congress recognized the necessity of legislation to prevent unfair methods of competition and monopoly within the United States, but effective legislation to prevent discriminations and unfair practices from abroad, to destroy competition and control prices, has not been enacted.

The plan your committee recommends is substantially stated in section 9 of the proposed bill:

SEC. 9. That whenever merchandise whether dutiable or free is exported to the United States of the class or kind provided for in this act, and the sales price is less than the foreign home value, or in the absence of such value is less than the value to countries other than the United States, or in the absence of such value is less than the cost of production, there shall be levied and collected, in addition to the duties on imported merchandise prescribed by law, a special duty in an amount equal to the difference between the sales price and the foreign home value or the value to countries other than the United States or the cost of production, as the case may be.

Antidumping legislation is not without precedent. Canada enacted an antidumping provision in 1904 and amended the same in 1907. Similar legislation was enacted in Australia in 1906 and in the Union of South Africa in 1914, and a more or less ineffective pro-

vision of law was enacted by the Congress of the United States under the heading of "Unfair competition" of the act of September 8, 1916.

In a recent report of the United States Tariff Commission on the subject, the following statement is made relative to the effectiveness of the provision enacted in 1916:

The antidumping law enacted by Congress on September 8, 1916, invites special comment. Some brief but substantial criticism of its effectiveness will be found among complaints presented to the commission and summarized in this report. As a criminal statute that act must be strictly construed. It is wanting in certainty in providing, as a condition precedent of the conviction of offenders, that the sale of articles in the United States must be at a price "substantially less" than the actual market value or wholesale price abroad. It apparently fails, where the Canadian laws succeed, in not contemplating in reasonable cases the prohibition of sporadic dumping, since its penalties apply only to persons who "commonly and systematically import" foreign articles, and in providing that such importation must be made with intent to injure, destroy, or prevent the establishment of an industry in this country, or to monopolize trade or commerce in the imported articles. Evidently, for the most part, the language of the act makes difficult, if not impossible, the conviction of offenders and, for that reason the enforcement of its purpose.

This statement by the Tariff Commission confirms an abundance of other evidence as to the inefficiency of so-called antidumping legislation in 1916 and the necessity for additional legislation at this time.

Elsewhere in the same report, the Tariff Commission makes the following statement:

With particular reference to the inconclusive character of some of the recitals of dumping, it must be borne in mind that, in the absence of governmental machinery devoted to its detection, conclusive proof of dumping is difficult to obtain. Until 1916 no statute of the United States had declared the practice unlawful and, even since that time, no governmental agency other than the Department of Justice has been particularly interested in its prevention. In the absence of large investigating powers the task of an individual who seeks to convert suspicious circumstances into proof, one element of which must be found abroad, is usually of extreme difficulty. This observation is supported by the experience of Canada. There, previous to 1904, when the antidumping clause was enacted, while complaints of dumping were common, the evidence was unsatisfactory and scattered. The Canadian law armed customs administrative agents of the Dominion with powers of inspection both at ports of entry, and, for a first time (on penalty of exclusion of merchandise for denial of access to original books) in the countries of exportation. In consequence, many instances of attempted dumping in Canada were discovered.

Section 17 of the bill recommended by your committee reaches the importer, the only person that can be reached, and denies him the right to import if his shipper or manufacturer refuses to open his books. This is quite in harmony with the Canadian practice, and in respect to the success of the Canadian law, the Tariff Commission reports:

So far, the experience of Canada supports the conclusion that the Canadian clause, in the main, has achieved its purpose.

Hon. A. Mitchell Palmer, in his report as Alien Property Custodian for the calendar year 1918, makes several references to injurious dumping practices by Germany.

On pages 30 and 31 of this report Mr. Palmer makes the following statement with reference to the dumping of dyestuffs in the United States:

Overproduction led to determined effort to establish and maintain a large export trade. The natural advantages of the German industry, as compared to the industry in other countries prevented serious competition in Germany

itself. The Government's tariff and other policies enabled home prices to be kept up. It was then evidently to the advantage of any manufacturer to produce more than he could sell in the home market, even if his export trade had to be carried at a loss, when by doing so he could use a process so economical that its profits on home trade would be largely increased. Accordingly, German dyestuffs began to appear in every country at prices which domestic manufacturers could not meet. The inevitable result was that in country after country the domestic manufacture was destroyed or stifled in its cradle. As soon as this had been accomplished it was no longer necessary for the German exporter to sell below cost. Prices were immediately raised and handsome profits realized. \* \* \*

The methods under which this dumping policy was conducted, and its extent, may be illustrated by a few specific instances. Most of these occurred in branches of the chemical industry other than the manufacture of dyes, for the simple and sufficient reason that in this country, at least, the dyestuff industry never reached the point where it required much discouragement.

The report then proceeds to point out that in 1910 a group of men in the United States engaged in the manufacture of aniline oil, then selling at 11½ cents, and the Germans immediately began underselling this product, one of whose customers refused "an advantageous contract at 8½ cents, stating that he had assurance from the Germans that whatever price the Benzol Products Co. made would be met and bettered by them." This company struggled along without profits until the war gave it an opportunity to establish its business on a firm foundation.

In his report Mr. Palmer continues:

In 1901 there were in the United States five manufacturers of salicylic acid. By 1913 three of these had failed. \* \* \* During the latter part of the decade referred to, salicylic acid was selling in Germany at from 26½ to 30½ cents. During the same period, the German houses were selling it in this country, after paying a duty of 5 cents, at 25 cents or from 6 to 10 cents below what they were getting at home.

Of oxalic acid the report says:

In 1901 where there was no American manufacture it was sold by the Germans at 8 cents. In 1903, when the works of the American Acid & Alkali Co. was started, the price was immediately dropped to 4.7 cents, at about which figure it remained until 1907 when the American factory was shut down for a number of months. During this shut-down the price was instantly raised to 9 cents. When the factory reopened the price was again dropped until in 1908, when the company failed. \* \* \*

The same process was carried on in regard to bicarbonate of potash. In 1900 there was no manufacture and imports ran about 160,000 pounds. In 1901 American manufacture began. This succeeded so well that in 1906 imports had dropped to 45,000 pounds. At this time the American manufacturer's price was 6½ cents, while the import value was given at 4.9 cents. In the following year the Germans made a determined and successful onslaught. Their import value was lowered to 2.2 cents with the result that, instead of 45,000, 300,000 were imported. Accordingly in 1908 the American manufacturer failed. The price was immediately raised to 7½ cents and remained thereabout until the war.

The bill your committee herein recommends is a composite of several drafts and suggestions that have been prepared, and has had the scrutiny of the various Government agencies under whose supervision the enforcement of its provisions would come.